

TITLE 14. BOARD OF FORESTRY AND FIRE PROTECTION

**Board of Forestry and Fire Protection  
Title 14 of the California Code of Regulations**

[Notice Published August 17, 2007]

**NOTICE OF PROPOSED RULEMAKING**

**Emergency Notice for Fuel Hazard Reduction, 2007**

**The Board proposes to adopt the following sections of Title 14 of the California Code of Regulations (14 CCR):**

**Amend:**

§ 895.1	Definitions
§ 1052	Emergency Notice
§ 1052.1	Emergency Conditions
§ 1052.4	Emergency Notice for Fuel Hazard Reduction

**PUBLIC HEARING**

The Board will hold a public hearing on Wednesday, October 10, 2007, starting at 8:00 a.m., at the Resources Building Auditorium, 1<sup>st</sup> Floor, and 1416 Ninth Street, Sacramento, California. At the hearing, any person may present statements or arguments, orally or in writing, relevant to the proposed action described in the Informative Digest. The Board requests, but does not require, that persons who make oral comments at the hearing also submit a summary of their statements. Additionally, pursuant to Government Code 11125.1, any information presented to the Board during the open hearing in connection with a matter subject to discussion or consideration becomes part of the public record. Such information shall be retained by the Board and shall be made available upon request.

**WRITTEN COMMENT PERIOD**

Any person, or authorized representative, may submit written comments relevant to the proposed regulatory action to the Board. The written comment period ends at 5:00 P.M., on Monday, October 1, 2007. The Board will consider only written comments received at the Board office by that time (in addition to those comments received at the public hearing). The Board requests, but does not require, that persons who submit written comments to the Board reference the title of the rulemaking proposal in their comments to facilitate review.

Written comments shall be submitted to the following address:

Board of Forestry and Fire Protection  
Attn: Christopher Zimny  
Regulations Coordinator

P.O. Box 944246  
Sacramento, CA 94244-2460

Written comments can also be hand delivered to the contact person listed in this notice at the following address:

Board of Forestry and Fire Protection  
Room 1506-14  
1416 9th Street  
Sacramento, CA

Written comments may also be sent to the Board via facsimile at the following phone number:

(916) 653-0989

Written comments may also be delivered via e-mail at the following address:

[board.public.comments@fire.ca.gov](mailto:board.public.comments@fire.ca.gov)

## **AUTHORITY AND REFERENCE**

Public Resources Code (PRC) 4551 authorizes the Board to adopt such Rules and regulations as it determines are reasonably necessary to enable it to implement, interpret, or make specific sections 4513, 4514.3, 4551.5, 4551.7, 4552, 4553, 4562, 4582, 4584 and 4592 of the Public Resources Code.

## **INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW**

The California State Board of Forestry and Fire Protection (Board) proposes amendments to regulations for timber harvest practices that reduce wildfire threat and hazardous fuel conditions in the State's private timberlands. The amendments proposed modify fuel treatment standards, modify the minimum post harvest stocking standards, clarify treatment requirements, and establishes a rule extension period. The proposal includes several Options among which the Board may choose as part of the action.

The proposal addresses the urgent, extensive and on-going wildfire hazard existing on private forest lands resulting from the combination of increasing quantity and arrangement of natural vegetation. The proposed regulation addresses fuel treatment modifications that are more cost efficient to apply while meeting hazard reduction goals. Finally, the rule proposal is necessitated by the pending expiration of the existing regulation on January 1, 2008.

## Regulation Purpose and Necessity

### **14 CCR § 895.1 Definitions**

The California Forest Practice Rules commonly utilize definitions of technical terms in the regulation text that are generally recognized by federal and state agencies, as well as the forest products industry representatives. However, the Forest Practice Rules under 14 CCR § 895.1 (Definitions) do not include a comprehensive listing of applicable definitions proposed for use in the regulation. Definitions are being added to allow for new terms and provide brevity and clarity in the proposed rule. Definitions being added include: *Fuels, ladder fuel, and surface fuel*. These definitions are needed to ensure that the prescribed fuel treatment method is applied to the appropriate fuel.

**Two options for an extension period of definitions:** The Board has provided Options for the length of time the definitions are effective. The dates coincide with other options for length of effective period for the entire regulation section. Option 1 provides for an extension of the definition until January 1, 2013. Option 1A, deletes the expiration date making the rule and the related definitions permanent with no expiration.

One definition is proposed for deletion. The deleted definition, *Average Severe Fire Weather Conditions*, is eliminated as it was used as part of the four foot flame length rule, which has been deleted as part of this proposal.

### **Amend 14 CCR § 1052 Emergency Notice**

This amendment provides two options (Options 1 and 1A). Option 1 extends the rule for five years until January 1, 2013. Option 1A makes the rule permanent with no expiration. The Board must select one of these options. Additionally, amendments to this subsection also delete the reference to regulation intent where post harvest conditions meet the four foot flame length performance standards.

### **Amend 14 CCR § 1052.4 Emergency Notice for Fuel Hazard Reduction**

Subsection (a) (4) is deleted. This deletion eliminates the use of the photo series as examples of compliance with the four foot flame length post harvest performance standard. With the Board proposing more measurable fuel treatment standards, and replacing the four foot standards, these photos series no longer solely depict the post harvest conditions and are unnecessary.

**Two Options for locations where the regulation applies:** Amendments to subsection (c) (5) and (6) clarify which mainline roads and fuelbreaks are eligible for treatments under terms of the regulation. Option 4 and 4A are proposed, and the Board must choose one of the options.

Option 4 deletes existing language for subsections (c) (5) and (6) and adds new language. The new language under Option 4 requires written concurrence of a public fire agency or acceptance by the Director for treatments within 500 feet of mainline roads or fuelbreaks. The deleted language required mainline roads or fuelbreaks eligible for this regulation to be identified in a fire prevention plan.

Option 4 may increase the number of roads or fuelbreaks eligible for treatment under this regulation because not all areas have fire prevention plans. Option 4A would retain the existing language with no deletion or addition of text. Retaining existing language under Option 4A improves reliability that the most appropriate roads and fuelbreaks are being treated under terms of this regulation.

Subsection (d) (3) (B) adds a fuel treatment standard for post harvest trees. The requirement specifies retaining no more than 200 trees per acre. This is intended to ensure that an adequate number of trees are removed to achieve adequate fire hazard reduction goals for the tree portion of the fuel profile.

**Three options for post harvest Minimum Stocking Standards:** Subsection (d) (4) amends the minimum post harvest stocking standard when preharvest conditions do not meet Commercial Thinning stocking standards. This amendment addresses situations in lower stocked forested areas of Southern California where tree densities do not meet Commercial Thinning standards, yet some level of commercial fuel hazard reduction is necessary. Three options are provided to the Board. The Board can adopt one of the options or none of the options.

Option 2 adds the requirement that postharvest stocking standards shall meet the basal requirements (but not the seed tree requirement) of the Selection silvicultural system standards for the Southern District when Commercial Thinning stocking levels are not found in the preharvest forest. While the differences between the Commercial Thinning standards and the Selection standards are not great, Option 2 allows inclusion of additional areas where single tree Selection silvicultural systems are used or where Commercial Thinning stocking standards are not present in the preharvest setting.

Option 2A provides for the basal area requirements of the Selection system standards for any Forest Practice District in the State, as low stocked forest conditions are found in areas other than southern California.

Option 2B requires both the basal area and seed tree retentions standards of the Selection system for post harvest minimum stocking standard. Option 2B would be applicable to all Forest Practice Districts in the State. Option 2B ensures that an adequate number of seed trees are retained on the site to accomplish reforestation goals of the seed tree silvicultural system.

**Three options for modifying fuel treatment standards:** Subsection (d) (5) modifies the post harvest vegetative treatment standards. These amendments are the most substantive changes to the regulatory proposal as they address which hazardous fuels must be reduced. All options of this amendment replace the “four foot” flame length requirement with standards that are more prescriptive and measurable. All options 1) provide hazard reduction for fuels which must be treated to avoid fire spreading to the larger trees, 2) provide fire intensity conditions (heat levels) that allow fire fighting crews to take direct suppression tactics for some forest settings, 3) reduce economic impacts and costs incurred by landowners by permitting efficient fuel removal, 4) diminish the likeliness that soil erosion environmental effects would occur due to landowners “cleaning” the forest floor, 5) increase retention of wildlife habitat in the form of hiding cover for small

animals, and 6) improve forest resistance to invasive species by allowing forest floor vegetation cover to be retained.

All options for these amendments have a significant economic benefit to landowners. They reduce the expense of brush removal, and intensive treatment of debris on the forest floor. Expected savings of \$200 to \$400/acres in reduced fuel treatment costs, compared to the four foot flame length standards, could be attained while still substantially improving fire safe conditions.

The options for subsection (d)(5), Option 3, 3A , 3B or 3C, are mutually exclusive and one must be chosen.

Option 3 of subsection (d) (5) requires that any dead fuel in the post harvest stand be vertically separated from other fuels. Slash created by the timber harvesting operation would be treated to achieve a maximum depth of less than nine inches of activity slash after harvesting. This Option does not require treatment of existing brush, dead and down surface fuels, or general removal of dead trees or logs. The prescription would reduce fire hazard, especially in forest stands where there are many overstocked trees and little brush or debris on the forest floor.

Option 3A of subsection (d) (5) proposes prescriptions similar to the Board's defensible space standards adopted under 14 CCR 1299, in 2006. These standards were adopted for hazard reduction for areas within 100 feet of homes. Under this proposal, all geographic areas of the rule would use this standard. The standard requires spacing of surface and ladder fuels (grasses, downlogs, shrubs and trees). The prescription establishes both horizontal and vertical spacing between all post harvest fuels. This standard reduces brush and forest floor surface fuel loading conditions. Such conditions provide safer access for fire fighters making direct attacks on flaming fire conditions. It will substantially limit vertical spread of fire, which is a prerequisite for fires which completely burn all standing vegetation and trees. This prescription will likely be more expensive to implement compared to Option 3, as removal of brush and dead and down surface fuels is required.

Option 3B of subsection (d) (5) proposes a combination of Option 3 and 3A where operations within 1320 feet of areas higher densities of homes, 500 feet of isolated structures, and 500 feet of fuelbreaks require treatment of all fuels (treatments specified in Option 3A). In other areas away from homes or fuelbreaks, treatment of logging slash created by harvesting operations (Option 3) is required. This Option balances the need for intensive (and more expensive) fuel hazard reduction near homes and fuelbreaks with lesser intensive (less expensive) treatments for roads and other feature outside of the wildland urban interface. It provides for a greater distance of more intensive fuel treatments for high density home areas compared to Option 3C below.

Option 3C of subsection (d) (5) also is a combination of Option 3 and 3A where operations within 500 feet homes of any structure and 500 feet from fuelbreaks require treatment of all fuels (treatments specified in Option 3A). Outside of 500 feet from structures and fuelbreaks, treatment of logging slash created by harvesting operations (Option 3) is required. This Option balances the

need for intensive (and more expensive) fuel hazard reduction near homes and fuelbreaks with lesser intensive (less expensive) treatments for roads and other feature outside of the wildland urban interface. It provides a lesser distance of more intensive fuel treatments for high density home areas compared to Option 3B (500 feet vs. 1320 feet).

Subsection (d) (6) deletes fuel treatment text which was moved to another subsection for consistency of language.

## **DISCLOSURES REGARDING THE PROPOSED ACTION**

The Board has determined the proposed action will have the following effects:

- Mandate on local agencies and school districts: None are known.
- Costs or savings to any State agency: None are known.
- Cost to any local agency or school district which must be reimbursed in accordance with the applicable Government Code (GC) sections commencing with GC 17500: None are known.
- Other non-discretionary cost or savings imposed upon local agencies: None are known.
- Cost or savings in federal funding to the State: None are known.
- Significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states: None are known.
- Potential cost impact on private persons or directly affected businesses: The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
- Effect on small business: None. The Board has determined that the proposed amendments will not affect small business. Small businesses should benefit from the reduction in regulatory requirements resulting from filing of an Emergency Notice instead of a Timber Harvest Plan for conducting operations under this regulation.
- Significant effect on housing costs: None are known.
- Adoption of these regulations will not create or eliminate jobs within California.
- Adoption of these regulations will not: (1) create new businesses or eliminate existing businesses within California; or (2) affect the expansion of businesses currently doing business within California.

The proposed Rules do not conflict with, or duplicate Federal regulations.

## **BUSINESS REPORTING REQUIREMENT**

The regulation does not require a report, which shall apply to businesses.

## **CONSIDERATION OF ALTERNATIVES**

In accordance with Government Code 11346.5(a) (13), the Board must determine that no reasonable alternative it considers or that has otherwise been identified and brought to the attention of the Board would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

## **CONTACT PERSON**

Requests for copies of the proposed text of the regulations, the *Initial Statement of Reasons*, modified text of the regulations and any questions regarding the substance of the proposed action may be directed to:

Board of Forestry and Fire Protection  
Attn: Christopher Zimny  
Regulations Coordinator  
P.O. Box 944246  
Sacramento, CA 94244-2460

Telephone: (916) 653-9418

The designated backup person in the event Mr. Zimny is not available is Doug Wickizer, Chief Environmental Protection and Regulation, Department of Forestry and Fire Protection, at the above address and phone number (916) 653 -5602.

## **AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS**

The Board has prepared an *Initial Statement of Reasons* providing an explanation of the purpose, background, and justification for the proposed regulations. The statement is available from the contact person on request.

When the *Final Statement of Reasons* has been prepared the statement will be available from the contact person on request.

A copy of the express terms of the proposed action using the following styles is also available from the contact person named in this notice:

- 1) language existing before 8/17/07 is shown in PLAIN TEXT,

- 2) language being proposed as either an amendment or new section is  
DOUBLE-SPACED AND SINGLE UNDERLINED,

The Board will have the entire rulemaking file, including all information considered as a basis for this proposed regulation, available for public inspection and copying throughout the rulemaking process at its office at the above address. All of the above referenced information is also available on the CDF web site at:

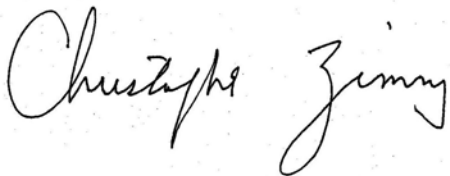
[http://www.fire.ca.gov/BOF/board/board\\_proposed\\_rule\\_packages.html](http://www.fire.ca.gov/BOF/board/board_proposed_rule_packages.html)

#### **AVAILABILITY OF CHANGED OR MODIFIED TEXT**

After holding the hearing and considering all timely and relevant comments received, the Board may adopt the proposed regulations substantially as described in this notice. If the Board makes modifications which are sufficiently related to the originally proposed text, it will make the modified text—with the changes clearly indicated—available to the public for at least 15 days before the Board adopts the regulations as revised. Notice of the comment period on changed regulations, and the full text as modified, will be sent to any person who:

- a) testified at the hearings,
- b) submitted comments during the public comment period, including written and oral comments received at the public hearing, or
- c) Requested notification of the availability of such changes from the Board of Forestry and Fire Protection.

Requests for copies of the modified text of the regulations may be directed to the contact person listed in this notice. The Board will accept written comments on the modified regulations for 15 days after the date on which they are made available.



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Christopher Zimny  
Regulations Coordinator  
Board of Forestry and Fire Protection

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